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10/688,432	10/16/2003	Philip D. Bourgeois	18112 USA	2220
21127 7590 03/24/2008				
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EXAMINER				
MCDOWELL, SUZANNE E				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
03/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,432

Applicant(s)

BOURGEOIS, PHILIP D.

Examiner

Suzanne E. McDowell

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-32, 43-48 and 57-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 57-61 is/are allowed.
- 6) ☒ Claim(s) 25, 27-29, 31, 32, 46-48 is/are rejected.
- 7) ☒ Claim(s) 26, 30, 43 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25, 29, 32, 45, 46, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by RD 282006A. RD 282006A discloses forming a multilayer container with a gas barrier layer containing copolyester amide, ethylene glycol and an alkylene amine, specifically m-xylylene diamine; and outside layers of polyester or other materials. Regarding claim 29, RD 282006A disclose that the preform may be formed by coextrusion or coinjection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27, 28, 31 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over RD 282006A. RD 282006A discloses forming a multilayer container with a gas barrier layer containing copolyester amide, ethylene glycol and an alkylene amine, specifically m-xylylene diamine; and outside layers of polyester or other materials. Regarding claims 27 and 28, RD 282006A teaches that conventional means are used to shape coextruded or coinjected preforms into bottles. One such

conventional means is blow molding. It would have been obvious to a person of ordinary skill in the art to use notoriously well known and conventional methods of molding, such as blow molding, which of necessity occurs when the preform is molten, to further define the method taught by RD 282006A, in order to quickly and easily form the desired finished bottle.

Regarding claims 31 and 47, RD 282006A does not specifically teach that the polyester is PET, PEN, regrinds or copolymers thereof. Such materials are generally well known in the container art. It would have been obvious to a person of ordinary skill in the art to choose a well known polyester, such as polyethylene terephthalate or regrind polyethylene terephthalate, to further define the method taught by RD 282006A, depending upon material cost, availability, processing characteristics, etc.

Allowable Subject Matter

5. Claims 26, 30, 43, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 57-61 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or fairly suggest a method of making an article by blending an alkylene imine polymer with a barrier resin and positioning the blend adjacent to an ester-containing resin.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on Mon and Th 5:30am-2pm, Tues 10am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Suzanne E. McDowell/
Primary Examiner, Art Unit 1791

SEM
March 17, 2008